

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable W. Richard Lee
Hearing Date: Thursday, September 12, 2013
Place: Department B – Courtroom #12
Fresno, California

INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

1. The following rulings are tentative. The tentative ruling will not become the final ruling until the matter is called at the scheduled hearing. **Pre-disposed matters will generally be called, and the rulings placed on the record at the end of the calendar.** Any party who desires to be heard with regard to a pre-disposed matter may appear at the hearing. If the party wishes to contest the tentative ruling, he/she shall notify the opposing party/counsel of his/her intention to appear. **If no disposition is set forth below, the hearing will take place as scheduled.**
2. Submission of Orders:

Unless the tentative ruling expressly states that the court will prepare a civil minute order, then the tentative ruling will only appear in the minutes. If any party desires an order, then the appropriate form of order, which conforms to the tentative ruling, must be submitted to the court. When the debtor(s) discharge has been entered, proposed orders for relief from stay must reflect that the motion is denied as to the debtor(s) and granted only as to the trustee. Entry of discharge normally is indicated on the calendar.
3. Matters Resolved Without Opposition:

If the tentative ruling states that no opposition was filed, and the moving party is aware of any reason, such as a settlement, why a response may not have been filed, the moving party must advise Vicky McKinney, the Calendar Clerk, at (559) 499-5825 by 4:00 p.m. the day before the scheduled hearing.
4. Matters Resolved by Stipulation:

If the parties resolve a matter by stipulation after the tentative ruling has been posted, but **before the formal order is entered on the docket**, the **moving party** may appear at the hearing and advise the court of the settlement or withdraw the motion. Alternatively, the parties may submit a stipulation and order to modify the tentative ruling together with the proposed order resolving the matter.
5. Resubmittal of Denied Matters:

If the moving party decides to re-file a matter that is denied without prejudice for any reason set forth below, the moving party must file and serve a new set of pleadings with a new docket control number. It may not simply re-notice the original motion.

9:00 A.M.

1. [12-17011](#)-B-11 LAWRENCE/CYNTHIA
WW-28 HILARIDES
LAWRENCE HILARIDES/MV
RILEY WALTER/Atty. for dbt. CONTINUED MOTION TO CLOSE
CHAPTER 11 CASE
6-28-13 [[519](#)]

**This matter appears to have been resolved by stipulation of the parties.
The court has signed the consensual order and the case has been
administratively closed. No appearance is necessary.**

2. [12-17458](#)-B-11 SOUTH LAKES DAIRY FARM,
A CALIFORNIA GENERAL
JACOB EATON/Atty. for dbt. CONTINUED CHAPTER 11 STATUS
CONFERENCE
9-10-12 [[21](#)]
3. [12-17458](#)-B-11 SOUTH LAKES DAIRY FARM,
KDG-17 A CALIFORNIA GENERAL
JACOB EATON/Atty. for dbt. CONTINUED HEARING RE:
CONFIRMATION OF CHAPTER 11 PLAN
3-20-13 [[260](#)]
4. [12-17458](#)-B-11 SOUTH LAKES DAIRY FARM,
KDG-28 A CALIFORNIA GENERAL
SOUTH LAKES DAIRY FARM, A
CALIFORNIA GENERAL
JACOB EATON/Atty. for dbt. CONTINUED MOTION TO ASSUME
LEASE OR EXECUTORY CONTRACT
7-3-13 [[370](#)]
5. [12-17458](#)-B-11 SOUTH LAKES DAIRY FARM,
RAC-3 A CALIFORNIA GENERAL
RONALD CLIFFORD/MV
JACOB EATON/Atty. for dbt.
RESPONSIVE PLEADING CONTINUED MOTION FOR
COMPENSATION BY THE LAW OFFICE
OF BLAKELEY AND BLAKELEY LLP
FOR RONALD A. CLIFFORD,
CREDITOR COMM. ATY(S),
7-23-13 [[404](#)]

10:30 A.M.

1. [08-15101](#)-B-13 FRANK/LOLLY QUINTO CONTINUED STATUS CONFERENCE RE:
[13-1061](#) COMPLAINT
QUINTO ET AL V. MTC FINANCIAL,
INC. 5-31-13 [[1](#)]
BATKHAND ZOLJARGAL/Atty. for pl.
RESPONSIVE PLEADING

This matter will be dropped from calendar and the adversary proceeding will remain dismissed pursuant to the civil minute order dated August 9, 2013. The plaintiffs did not file and serve an amended complaint. No appearance is necessary.

2. [12-60054](#)-B-7 DWIGHT/NELLIE LONG CONTINUED STATUS CONFERENCE RE:
[13-1038](#) AMENDED COMPLAINT
GROSS MORTGAGE CORPORATION V. 7-2-13 [[21](#)]
LONG
HANNO POWELL/Atty. for pl.
3. [12-60054](#)-B-7 DWIGHT/NELLIE LONG MOTION TO DISMISS ADVERSARY
[13-1038](#) PROCEEDING/NOTICE OF REMOVAL
GROSS MORTGAGE CORPORATION V. 8-1-13 [[34](#)]
LONG
DWIGHT LONG/Atty. for mv.
4. [11-61965](#)-B-7 G.R. ELLIOTT CONTINUED STATUS CONFERENCE RE:
[13-1027](#) CONSTRUCTION, INC. AMENDED COMPLAINT
HAWKINS V. JETT ET AL 6-13-13 [[17](#)]
GABRIEL WADDELL/Atty. for pl.
RESPONSIVE PLEADING

1:30 P.M.

1. [12-17006](#)-B-13 JOSE/EMMA MENDOZA
GH-5
JOSE MENDOZA/MV

OBJECTION TO CLAIM OF CAPITAL
COLLECTIONS, LLC, CLAIM NUMBER
24
7-26-13 [[93](#)]

GARY HUSS/Atty. for dbt.

The objection will be sustained as modified below. Claim # 24 was untimely and will not receive any distribution in this chapter 13 proceeding. However, if this case is converted to a case under any other chapter, and a new bar date is set for the filing of claims, this claim shall be deemed timely and shall be allowed pursuant to 11 U.S.C. § 502(a), without the necessity of filing a new proof of claim.

It is further ordered that no additional attorneys fees will be awarded to debtors' counsel for the prosecution of this objection. Under the plan as confirmed the cost of paying this claim would have been approximately \$46.25. It is not clear that the preparation and prosecution of this claim objection was necessary or beneficial to the debtors or the bankruptcy estate. The objecting party shall submit a proposed order consistent with this ruling. No appearance is necessary.

2. [09-17621](#)-B-13 THADDIS/LEILIA JOHNSON
RFM-1
U.S. BANK, N.A./MV
DAVID JENKINS/Atty. for dbt.
RAYMOND MOATS/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
8-9-13 [[54](#)]

This motion for relief from the automatic stay will be denied as moot. The secured claim relating to this collateral is provided for in Class 4 of the debtors' confirmed chapter 13 plan. Upon confirmation of the chapter 13 plan, the automatic stay was modified for this claim to permit enforcement of the creditor's remedies with regard to the collateral so long as this case remains in chapter 13. No attorney's fees will be awarded in relation to this motion. No appearance is necessary.

3. [13-15129](#)-B-13 BENITO DIAZ AND ROSA
TOG-1 GARCIA
BENITO DIAZ/MV
THOMAS GILLIS/Atty. for dbt.

MOTION TO VALUE COLLATERAL OF
BANK OF AMERICA, N.A.
8-8-13 [[9](#)]

This matter will be continued to October 10, 2013, at 1:30 p.m., to track with the continued motion to value the same collateral, below. The court will prepare a minute order. No appearance is necessary.

4. [13-15129](#)-B-13 BENITO DIAZ AND ROSA MOTION TO VALUE COLLATERAL OF
TOG-3 GARCIA AMERICA'S SERVICING CO.
BENITO DIAZ/MV 8-8-13 [[14](#)]
THOMAS GILLIS/Atty. for dbt.
RESPONSIVE PLEADING

Based on the respondent's opposition, this matter will be continued to October 10, 2013, at 1:30 p.m., to be called with the respondent's objection to confirmation of the chapter 13 plan. This matter is now deemed to be a contested matter. Pursuant to FRBP 9014(c), the federal rules of discovery apply to contested matters. The debtor(s) shall make the subject property available for inspection on reasonable notice. The parties shall immediately commence formal discovery, exchange appraisals, meet and confer, set deposition dates if necessary, and be prepared for the court to set an early evidentiary hearing if the matter is not resolved by the continued hearing date. The court will prepare a civil minute order. No appearance is necessary.

5. [13-15258](#)-B-13 LENNEL/BELINDA EARL MOTION TO VALUE COLLATERAL OF
KMM-1 CITIMORTGAGE, INC.
LENNEL EARL/MV 8-9-13 [[8](#)]
KARNEY MEKHITARIAN/Atty. for dbt.

This motion to value the collateral for a consensual lien against real property was fully noticed in compliance with the Local Rules and there was no opposition. The motion will be granted for cause shown without oral argument. Based on the evidence offered in support of the motion, the respondent's junior priority mortgage claim is found to be wholly unsecured and may be treated as a general unsecured claim in the chapter 13 plan. The debtor(s) may proceed under state law to obtain a reconveyance of respondent's trust deed upon completion of the chapter 13 plan and entry of the discharge. *Unless the chapter 13 plan has been confirmed, then the order shall specifically state that it is not effective until confirmation of the plan.* The debtor(s) shall submit a proposed order consistent with this ruling. No appearance is necessary.

This ruling is only binding on the named respondent in the moving papers and any successor who takes an interest in the property after service of the motion.

6. [08-12770](#)-B-13 LUIS/ANGELINA SALES MOTION TO APPROVE LOAN
DRJ-4 MODIFICATION
LUIS SALES/MV 8-27-13 [[68](#)]
DAVID JENKINS/Atty. for dbt.

7. [12-19372](#)-B-13 ELVIA SMITH
JDM-3
ELVIA SMITH/MV
JAMES MILLER/Atty. for dbt.

MOTION TO APPROVE LOAN
MODIFICATION
8-7-13 [[50](#)]

This matter was fully noticed in compliance with the Local Rules and there is no opposition. The motion will be granted without oral argument for cause shown. The moving party shall submit a proposed order. No appearance is necessary.

The court does not review or specifically approve the terms of a chapter 13 mortgage modification agreement. However, if modification of the mortgage does not appear to affect the trustee's administration of the case, the court will authorize the debtor to move forward with the mortgage modification on terms negotiated with the lender.

8. [13-14973](#)-B-13 CHRISTINE BROUGH
GH-1
CHRISTINE BROUGH/MV
GARY HUSS/Atty. for dbt.

MOTION TO VALUE COLLATERAL OF
CITIMORTGAGE, INC.
7-23-13 [[11](#)]

This motion to value the collateral for a consensual lien against real property was fully noticed in compliance with the Local Rules and there was no opposition. The motion will be granted for cause shown without oral argument. Based on the evidence offered in support of the motion, the respondent's junior priority mortgage claim is found to be wholly unsecured and may be treated as a general unsecured claim in the chapter 13 plan. The debtor(s) may proceed under state law to obtain a reconveyance of respondent's trust deed upon completion of the chapter 13 plan and entry of the discharge. *Unless the chapter 13 plan has been confirmed, then the order shall specifically state that it is not effective until confirmation of the plan.* The debtor(s) shall submit a proposed order consistent with this ruling. No appearance is necessary.

This ruling is only binding on the named respondent in the moving papers and any successor who takes an interest in the property after service of the motion.

9. [12-14283](#)-B-13 DEANNA ALLEN
PBB-1
DEANNA ALLEN/MV
PETER BUNTING/Atty. for dbt.
RESPONSIVE PLEADING

MOTION TO MODIFY PLAN
8-7-13 [[28](#)]

The motion to confirm or modify a chapter 13 plan was fully noticed in compliance with the Local Rules and the trustee's opposition has been withdrawn. The motion will be granted without oral argument for cause shown. The debtor(s) shall submit a proposed confirmation order for approval to the chapter 13 trustee. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed. No appearance is necessary.

10. [11-16697](#)-B-13 RONALD/DONNA HOFFART
ANDY WARSHAW/Atty. for dbt.
RESPONSIVE PLEADING
TRUSTEE'S NOTICE OF DEFAULT AND
INTENT TO DISMISS CASE
6-13-13 [[76](#)]
11. [12-17599](#)-B-13 JAMES LOVELACE
JDW-7
JAMES LOVELACE/MV
JOEL WINTER/Atty. for dbt.
MOTION TO MODIFY PLAN
8-5-13 [[92](#)]
12. [13-12899](#)-B-13 MARK EDELMAN
JAMES MILLER/Atty. for dbt.
FINAL INSTALLMENT FEES PAID
\$71.00
ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
8-27-13 [[51](#)]
- The record shows that this document has been filed and/or the required fee has been paid in full. The OSC will be dropped from calendar. No appearance is necessary.**
13. [12-18250](#)-B-13 ERNIE/KATHLEEN GARCIA
FJG-3
ERNIE GARCIA/MV
F. GIST/Atty. for dbt.
FINAL HEARING RE: MOTION TO
CONFIRM PLAN
5-1-13 [[100](#)]
14. [11-16826](#)-B-13 ASHLEY MARTINEZ
ASW-4
ASHLEY MARTINEZ/MV
ADRIAN WILLIAMS/Atty. for dbt.
MOTION TO APPROVE LOAN
MODIFICATION
9-4-13 [[71](#)]
15. [13-13061](#)-B-13 VANESSA FITZGERALD
GH-2
MICHAEL MEYER/MV
GARY HUSS/Atty. for dbt.
RESPONSIVE PLEADING
CONTINUED COUNTER MOTION TO
DISMISS CASE
7-22-13 [[44](#)]
16. [13-13061](#)-B-13 VANESSA FITZGERALD
GH-2
VANESSA FITZGERALD/MV
GARY HUSS/Atty. for dbt.
RESPONSIVE PLEADING
CONTINUED MOTION TO CONFIRM
PLAN
6-13-13 [[33](#)]

2:00 P.M.

1. [13-10830](#)-B-13 ANTONIO/BLANCA HOLGUIN
MHM-1
MICHAEL MEYER/MV

MOTION TO DISMISS CASE FOR
UNREASONABLE DELAY THAT IS
PREJUDICIAL TO CREDITORS AND/OR
MOTION TO DISMISS CASE
8-2-13 [[55](#)]

HENRY NUNEZ/Atty. for dbt.
RESPONSIVE PLEADING